

Exhibit W

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/16/13

DEPT. 50

HONORABLE JOSH M. FREDRICKS

JUDGE

I. FLORES

DEPUTY CLERK

HONORABLE
5

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

E. AVENA, C/A

Deputy Sheriff

NONE

Reporter

8:31 am

BC465542

Plaintiff
Counsel

TIA SMITH (X)
VS

in propria persona

MORTGAGE ELECTRONIC REGISTRATIO
SYSTEMS INC ET AL

Defendant
Counsel

JUSTIN D. BALSER (X)
-via CourtCall

NATURE OF PROCEEDINGS:

DEMURRER OF DEFENDANTS, AURORA LOAN SERVICES LLC,
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AND
DEUTSCHE BANK TRUST COMPANY AMERICAS SOLELY IN ITS
CAPACITY AS TRUSTEE FOR CERTIFICATE HOLDERS OF
RALI 2007-Q01 TRUST, TO PLAINTIFF'S THIRD AMENDED
COMPLAINT FILED BY DEFENDANTS;

Demurrer as captioned above, is called for hearing
and held.

The court issues an oral tentative ruling in this
matter.

The court hears from the parties. After hearing
from the parties, the court adopts its oral
tentative ruling as the final order of the court.

The court rules as follows:

The defendants' request for judicial notice of
recorded documents in the chain of title, and one
document filed with Office of Thrift Supervision, is
GRANTED for the "official acts" the documents
evidence, and any legal effect of the documents
clear from the face thereof, but not for the truth
of any disputed hearsay statements recited therein.
Evidence Code Section 452(c), (h).

Plaintiff's request for judicial notice is also

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granted. Evidence Code Sections 451(a), 452(c), 452(d). Again, only for the legal effect of the documents clear from the face thereof, and not for the truth.

The demurrer is sustained for all of the reasons set forth in the moving and reply papers. In sum, the demurrer to causes of action 2, 5, 6, 10, 15, and 17, mostly for fraud at loan origination, is sustained on the 1-4 year statutes of limitations that apply to them, where plaintiff has failed to amend to properly plead delayed discovery, despite opportunity. The demurrer to causes of action 1, 4, 8, 13, and 16, which challenge the foreclosure, is sustained for failure to properly allege that plaintiff made a full tender. The demurrer to the remaining claims, including cause os action 3, 7, 9, 11, 12, and 14, is sustained because there is no duty to modify a loan, nor any law that authorizes filing of a speculative suit to find out whether a defendant has authority to foreclose. To the extent all of these causes of action further are ultimately challenges to the foreclosure, the demurrer to each of them is sustained for the further reason that plaintiff has not alleged prejudice, that is, that the "true creditor," whoever that might be, would not have foreclosed even though the plaintiff was severely in default on her loan. Plaintiff does not allege any such facts.

Nor has plaintiff made a persuasive argument on

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NATURE OF PROCEEDINGS:

leave to amend any of these causes of action, where plaintiff has already had one opportunity to amend and has failed to amend to cure.

The demurrer is sustained to each of the causes of action without leave to amend.

Counsel for defendants is ordered to give notice.

OUTSIDE THE PRESENCE OF DEFENDANTS' COUNSEL:

Counsel for defendants is ordered to prepare and submit a proposed Order and a proposed Judgment for the court's signature.

The Final Status Conference set for January 3, 2014 and the Trial date set for January 6, 2014 are advanced to this date and vacated.

An Order to Show Cause re dismissal for plaintiff's failure to serve defendant Walmar Financial Group is set for SEPTEMBER 16, 2013 at 8:30 a.m. in this department.

An Order to Show Cause re dismissal for plaintiff's failure to file a request for entry of default as to defendant American Mortgage Network, Inc. is also set for SEPTEMBER 16, 2013 at 8:30 a.m. in this department.

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NATURE OF PROCEEDINGS:

A Bankruptcy Status Conference as to defendants:
Residential Funding Company; GMAC Mortgage, LLC;
Cal-Western Reconveyance Corporation, Homecomings
Financial LLC; and Residential Accredited is set for
DECEMBER 17, 2013 at 8:30 a.m. in this department.

Plaintiff is ordered to give notice to all parties
including, the bankruptcy trustee.

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the
above-entitled court, do hereby certify that I am
not a party to the cause herein, and that on this
date I served the minute order dated: 8/16/13,
upon each party or counsel named below by placing
the document for collection and mailing so as to
cause it to be deposited in the United States mail
at the courthouse in Los Angeles, California, one
copy of the original filed/entered herein in a
separate sealed envelope to each address as shown
below with the postage thereon fully prepaid, in
accordance with standard court practices.

Dated: 8/16/13

John A. Clarke, Executive Officer/Clerk

By: 

I. Flores, Deputy Clerk

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NATURE OF PROCEEDINGS:

JUSTIN D. BALSER
AKERMAN SENTERFITT, LLP
725 South Figueroa Street, 38th Floor
Los Angeles, CA 90017-5433

TIA SMITH
4011 Hubert Avenue
Los Angeles, CA 90008